



ANALYSIS

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| 1. Short Title and commencement | 3. Self-defence and defence of another |
| 2. Meaning of "Cook Islands waters" | 4. Use of explosive or toxic or poisonous substances in fishing |

1981, No. 17

An Act to amend the Crimes Act 1969.

(1st December 1981)

BE IT ENACTED by the Parliament of the Cook Islands, in Session assembled, and by the authority of the same, as follows:

1. Short Title and commencement - (1) This Act may be cited as the Crimes Amendment Act 1981, and shall be read together with and deemed part of, the Crimes Act 1969 (hereinafter referred to as the "principal Act").

(2) This Act shall come into force on the 1st day of January 1982.

2. Meaning of "Cook Islands waters" - Section 2 of the principal Act is hereby amended by inserting in subsection (1), after the definition of the term "Cook Islands ship", the following definition:

"Cook Islands waters' means the territorial sea of the Cook Islands as defined in section 3 of the Territorial Sea and Exclusive Economic Zone Act 1977; and includes the internal waters of the Cook Islands as defined in section 4 of that Act; and also includes all salt, brackish, or fresh waters in any river, stream, or lake of the Cook Islands."

3. Self-defence and defence of another - (1) The principal Act is hereby amended by ~~repealing sections 50 to 53, and substituting the following section:~~

"50. Every one is justified in using, in the defence of himself or another, such force as, in the circumstances as he believes them to be, it is reasonable to use."

(2) Sections 54(2), 55(2), 56(2), 58(2), 59(2), and 59(3) of the principal Act are hereby repealed.

(3) This section does not apply to any act done before the 1st day of January 1982.

4. Use of explosive or toxic or poisonous substances in fishing - The principal Act is hereby amended by inserting, after section 328, the following section:

328A. (1) Every one commits an offence, and is liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$500 or to both, who places or uses in Cook Islands waters, for the purpose of catching or killing fish of any kind (as defined in section 2 of the Fisheries Protection Act 1976), any dynamite or other explosive of any kind or any toxic gas or any toxic, poisonous, noxious, or narcotic substance.

(2) Where any person is charged with having committed an offence against subsection (1) of this section, it shall be presumed that any dynamite or other explosive or any toxic gas or any toxic, poisonous, noxious, or narcotic substance placed or used by him in Cook Islands waters was placed or used by him for the purpose of catching or killing fish, unless he satisfies the High Court to the contrary.

(3) Every one commits an offence, and is liable to a fine not exceeding \$500, who has in his possession any fish caught by means of dynamite or any other explosive or any toxic gas or any toxic, poisonous, noxious, or narcotic substance:

"Provided that in any proceedings for an offence against this subsection it shall be a defence if the defendant satisfies the High Court that he did not know, and could not with the exercise of reasonable care have known, that the fish to which the alleged offence relates were caught as aforesaid."

(4) Nothing in this section shall apply in respect of any fish caught as a result of the use of dynamite or other explosive in Cook Island waters for harbour development, removal of wreckage or other legitimate purposes".

This Act is administered in the Justice Department